
HOUSE BILL No. 1235

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-20.

Synopsis: Petition and remonstrance procedure. Allows an individual who is at least 18 years of age and who is a resident of a political subdivision (as demonstrated by voter registration records, driver's license records, or personal identification card records) to sign a petition for or a remonstrance against a bond issue or lease proposed by the political subdivision. Allows the same individuals to petition the department of local government finance for review of a bond issue of a political subdivision.

Effective: Upon passage; July 1, 2002.

Moses, Kruzan, Scholer, Porter

January 10, 2002, read first time and referred to Committee on Rules and Legislative Procedures.

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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

HOUSE BILL No. 1235

A BILL FOR AN ACT to amend the Indiana Code concerning property taxes.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-20-1.8 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2002]: **Sec. 1.8. (a) As used in this chapter,**
4 **"qualified person" refers to either of the following:**

5 **(1) A person who owns real property within the political**
6 **subdivision.**

7 **(2) An individual who is:**

8 **(A) at least eighteen (18) years of age; and**

9 **(B) a resident of the political subdivision.**

10 **(b) An individual is considered to satisfy the age and residency**
11 **requirements of subsection (a)(2) only if either of the following**
12 **shows that the individual satisfies those requirements:**

13 **(1) The voter registration records of the circuit court clerk.**

14 **(2) The drivers license records of the bureau of motor**
15 **vehicles.**

16 SECTION 2. IC 6-1.1-20-3.1 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 3.1. A political**



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subdivision may not impose property taxes to pay debt service or lease rentals without completing the following procedures:

(1) The proper officers of a political subdivision shall:

(A) publish notice in accordance with IC 5-3-1; and

(B) send notice by first class mail to any organization that delivers to the officers, before January 1 of that year, an annual written request for such notices;

of any meeting to consider adoption of a resolution or an ordinance making a preliminary determination to issue bonds or enter into a lease and shall conduct a public hearing on a preliminary determination before adoption of the resolution or ordinance.

(2) When the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease, the officers shall give notice of the preliminary determination by:

(A) publication in accordance with IC 5-3-1; and

(B) first class mail to the organizations described in subdivision (1)(B).

(3) A notice under subdivision (2) of the preliminary determination of the political subdivision to issue bonds or enter into a lease must include the following information:

(A) The maximum term of the bonds or lease.

(B) The maximum principal amount of the bonds or the maximum lease rental for the lease.

(C) The estimated interest rates that will be paid and the total interest costs associated with the bonds or lease.

(D) The purpose of the bonds or lease.

(E) A statement that any ~~owners of real property within the political subdivision~~ **qualified persons** who want to initiate a petition and remonstrance process against the proposed debt service or lease payments must file a petition that complies with subdivisions (4) and (5) not later than thirty (30) days after publication in accordance with IC 5-3-1.

(4) After notice is given, a petition requesting the application of a petition and remonstrance process may be filed by the lesser of:

(A) two hundred fifty (250) ~~owners of real property within the political subdivision;~~ **qualified persons;** or

(B) ten percent (10%) of the ~~owners of real property within population of the political subdivision who are at least eighteen (18) years of age.~~

(5) Each petition must be verified under oath by at least one (1) qualified ~~petitioner~~ **person** in a manner prescribed by the state

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board of accounts before the petition is filed with the county auditor under subdivision (6).

(6) Each petition must be filed with the county auditor not more than thirty (30) days after publication under subdivision (2) of the notice of the preliminary determination.

(7) The county auditor must file a certificate and each petition with:

(A) the township trustee, if the political subdivision is a township, who shall present the petition or petitions to the township board; or

(B) the body that has the authority to authorize the issuance of the bonds or the execution of a lease, if the political subdivision is not a township;

within fifteen (15) business days of the filing of the petition requesting a petition and remonstrance process. The certificate must state the number of ~~petitioners that are owners of real property within the political subdivision~~ **qualified persons who have signed the petition.**

If a sufficient petition requesting a petition and remonstrance process is not filed by ~~owners of real property~~ **qualified persons** as set forth in this section, the political subdivision may issue bonds or enter into a lease by following the provisions of law relating to the bonds to be issued or lease to be entered into.

SECTION 3. IC 6-1.1-20-3.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3.2. If a sufficient petition requesting the application of a petition and remonstrance process has been filed as set forth in section 3.1 of this chapter, a political subdivision may not impose property taxes to pay debt service or lease rentals without completing the following procedures:

(1) The proper officers of the political subdivision shall give notice of the applicability of the petition and remonstrance process by:

(A) publication in accordance with IC 5-3-1; and

(B) first class mail to the organizations described in section 3.1(1)(B) of this chapter.

A notice under this subdivision must include a statement that any ~~owners of real property within the political subdivision~~ **qualified persons** who want to petition in favor of or remonstrate against the proposed debt service or lease payments must file petitions and remonstrances in compliance with subdivisions (2) through (4) not earlier than thirty (30) days or later than sixty (60) days after publication in accordance with IC 5-3-1.

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(2) Not earlier than thirty (30) days or later than sixty (60) days after the notice under subdivision (1) is given:

(A) petitions (described in subdivision (3)) in favor of the bonds or lease; and

(B) remonstrances (described in subdivision (3)) against the bonds or lease;

may be filed by ~~an owner or owners of real property within the political subdivision~~ **a qualified person**. Each signature on a petition must be dated and the date of signature may not be before the date on which the petition and remonstrance forms may be issued under subdivision (3). A petition described in clause (A) or a remonstrance described in clause (B) must be verified in compliance with subdivision (4) before the petition or remonstrance is filed with the county auditor under subdivision (4).

(3) The state board of accounts shall design and, upon request by the county auditor, deliver to the county auditor or the county auditor's designated printer the petition and remonstrance forms to be used solely in the petition and remonstrance process described in this section. The county auditor shall issue to ~~an owner or owners of real property within the political subdivision~~ **a qualified person** the number of petition or remonstrance forms requested by the ~~owner or owners~~ **qualified person**. Each form must be accompanied by instructions detailing the requirements that:

(A) the carrier and signers must be ~~owners of real property~~ **qualified persons**;

(B) the carrier must be a signatory on at least one (1) petition;

(C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature; and

(D) govern the closing date for the petition and remonstrance period.

Persons requesting forms may not be required to identify themselves and may be allowed to pick up additional copies to distribute to other ~~property owners~~ **qualified persons**. The county auditor may not issue a petition or remonstrance form earlier than twenty-nine (29) days after the notice is given under subdivision (1). The county auditor shall certify the date of issuance on each petition or remonstrance form that is distributed under this subdivision.

(4) The petitions and remonstrances must be verified in the

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manner prescribed by the state board of accounts and filed with the county auditor within the sixty (60) day period described in subdivision (2) in the manner set forth in section 3.1 of this chapter relating to requests for a petition and remonstrance process.

(5) The county auditor must file a certificate and the petition or remonstrance with the body of the political subdivision charged with issuing bonds or entering into leases within fifteen (15) business days of the filing of a petition or remonstrance under subdivision (4), whichever applies, containing ten thousand (10,000) signatures or less. The county auditor may take an additional five (5) days to review and certify the petition or remonstrance for each additional five thousand (5,000) signatures up to a maximum of sixty (60) days. The certificate must state the number of petitioners and remonstrators ~~that are owners of real property within the political subdivision~~ **who are qualified persons.**

(6) If a greater number of ~~owners of real property within the political subdivision~~ **qualified persons** sign a remonstrance than the number that signed a petition, the bonds petitioned for may not be issued or the lease petitioned for may not be entered into. The proper officers of the political subdivision may not make a preliminary determination to issue bonds or enter into a lease for the controlled project defeated by the petition and remonstrance process under this section or any other controlled project that is not substantially different within one (1) year after the date of the county auditor's certificate under subdivision (5). Withdrawal of a petition carries the same consequences as a defeat of the petition.

(7) After a political subdivision has gone through the petition and remonstrance process set forth in this section, the political subdivision is not required to follow any other remonstrance or objection procedures under any other law relating to bonds or leases designed to protect owners of real property within the political subdivision from **or other persons from** the imposition of property taxes to pay debt service or lease rentals. However, the political subdivision must still receive the approval of the state board of tax commissioners required by IC 6-1.1-18.5-8 or IC 6-1.1-19-8.

SECTION 4. IC 6-1.1-20-3.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 3.4. (a) When determining**

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whether an individual who has signed a petition or a remonstrance is a qualified person, the county auditor shall check the following records, in the following order:

- (1) The property tax records of the county.
- (2) The voter registration records of the county.
- (3) The records of the bureau of motor vehicles relating to an individual's driver's license issued under IC 9-24-11 or an individual's identification issued under IC 9-24-16.

(b) If information in any of the records described in subsection (a) satisfies the county auditor that an individual is a qualified person, the county auditor:

- (1) is not required to check the other records described in subsection (a); and
- (2) shall certify the individual's signature as the signature of a qualified person.

SECTION 5. IC 6-1.1-20-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) When the proper officers of a political subdivision decide to issue bonds in a total amount which exceeds five thousand dollars (\$5,000), they shall give notice of the decision by:

- (1) posting; and
- (2) publication once each week for two (2) weeks.

The notice required by this section shall be posted in three (3) public places in the political subdivision and published in accordance with IC 5-3-1-4. The decision to issue bonds may be a preliminary decision.

(b) Ten (10) or more ~~taxpayers who will be affected by the proposed issuance of the bonds and~~ **qualified persons** who wish to object to the issuance on the grounds that it is unnecessary or excessive may file a petition in the office of the auditor of the county in which the political subdivision is located. The petition must be filed within fifteen (15) days after the notice required by subsection (a) of this section is given, and it must contain the objections of the ~~taxpayers~~ **qualified persons** and facts which show that the proposed issue is unnecessary or excessive. When ~~taxpayers~~ **qualified persons** file a petition in the manner prescribed in this subsection, the county auditor shall immediately forward a certified copy of the petition and any other relevant information to the ~~state board of tax commissioners~~ **department of local government finance**.

SECTION 6. IC 6-1.1-20-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. (a) Upon receipt of a certified petition filed in the manner prescribed in section 5(b) of this chapter, the ~~state board of tax commissioners~~ **department of local**

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government finance shall fix a time and place for a hearing on the matter. The ~~state board department~~ shall hold the hearing not less than five (5) or more than thirty (30) days after the ~~board department~~ receives the petition, and the ~~state board department~~ shall hold the hearing in the political subdivision or in the county where the political subdivision is located. At least five (5) days before the date fixed for the hearing, the ~~state board of tax commissioners department~~ shall give notice of the hearing, by mail, to the executive officer of the political subdivision and to the first ten (10) **taxpayers qualified persons** who signed the petition. The mailings shall be addressed to the officer and the **taxpayers qualified persons** at their usual place of residence.

(b) After the hearing required by this section, the ~~state board of tax commissioners department of local government finance~~ may approve, disapprove, or reduce the amount of the proposed issue. The ~~board department~~ must render a decision not later than three (3) months after the hearing, and if no decision is rendered within that time, the issue is considered approved unless the ~~board department~~ takes the extension provided for in this section. However, a three (3) month extension of the time period during which the decision must be rendered may be taken by the ~~board department~~ if the ~~board department~~ by mail gives notice of the extension to the executive officer of the political subdivision and to the first ten (10) **taxpayers qualified persons** who signed the petition, at least ten (10) days before the end of the original three (3) month period. If no decision is rendered within the extension period, the issue is considered approved. The action taken by the ~~state board of tax commissioners department~~ on the proposed issue is final.

SECTION 7. IC 6-1.1-20-9, AS AMENDED BY P.L.47, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 9. (a) When the proper officers of a political subdivision decide to issue bonds payable from property taxes to finance a public improvement, they shall adopt an ordinance or resolution which sets forth their determination to issue the bonds. Except as provided in subsection (b) of this section, the political subdivision may not advertise for or receive bids for the construction of the improvement until the expiration of the latter of:

- (1) the time period within which **taxpayers qualified persons** may file a petition for review of or a remonstrance against the proposed issue; or
- (2) the time period during which a petition for review of the proposed issue is pending before the ~~state board of tax~~



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~~commissioners.~~ **department of local government finance.**

(b) When a petition for review of a proposed issue is pending before the ~~state board of tax commissioners,~~ **department of local government finance,** the ~~board~~ **department** may order the political subdivision to advertise for and receive bids for the construction of the public improvement. When the ~~board~~ **department** issues such an order, the political subdivision shall file a bid report with the ~~state board of tax commissioners~~ **department** within five (5) days after the bids are received, and the ~~board~~ **department** shall render a final decision on the proposed issue within fifteen (15) days after it receives the bid report. Notwithstanding the provisions of this subsection, a political subdivision may not enter into a contract for the construction of a public improvement while a petition for review of the bond issue which is to finance the improvement is pending before the ~~state board of tax commissioners.~~ **department.**

SECTION 8. [EFFECTIVE UPON PASSAGE] (a) **IC 6-1.1-20, as amended by this act, does not apply to imposition of property taxes by a political subdivision to pay debt service or lease rentals if, before July 1, 2002, the political subdivision holds a public hearing on a preliminary determination to issue bonds or enter into a lease under IC 6-1.1-20-3.1, as in effect before July 1, 2002.**

(b) **IC 6-1.1-20, as in effect before July 1, 2002, applies to the imposition of property taxes by a political subdivision to pay debt service or lease rentals if, before July 1, 2002, the political subdivision held a public hearing on a preliminary determination to issue bonds or enter into a lease under IC 6-1.1-20-3.1, as in effect before July 1, 2002.**

(c) **This SECTION expires July 1, 2004.**

SECTION 9. **An emergency is declared for this act.**

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